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JAMES E. DERDERIAN, CHIEF OF STAFF

The Honorable John R. Kasich
Chairman
Committee on the Budget
309 Cannon House Office Building
Washington, D.C. 205 15

Dear Mr. Chairman:

Pursuant to the provisions of Clause 4(g) of Rule X of the Rules of the House of Representatives for the 105th Congress and Section 301(d) of the Congressional Budget Act of 1974, as amended, I am transmitting the Views and Estimates of the Committee on Commerce with respect to the President's Budget Proposal for Fiscal Year 1998.

These Views and Estimates reflect the views of the Majority Members of the Committee. It is my understanding that the Minority Members of the Committee plan to transmit separate views to you for your consideration.

As always, the Members of the Committee on Commerce stand ready to work with the Members of the Committee on the Budget to develop a budget for Fiscal Year 1998 that is not only fiscally responsible, but one which will result in achieving our goal of a balanced budget by 2002. If I can be of any further assistance to you as you proceed with your Committee's deliberations, please do not hesitate to contact me.

Sincerely,

Tom Bliley
Chairman

Enclosure

U.S. House of Representatives
Committee on Commerce
Room 2125, Rayburn House Office Building
Washington, DC 20515-6115
March 20, 1997

Views and Estimates on the Fiscal Year 1998 Budget



Submitted by the Committee on Commerce
U.S. House of Representatives

Tom Bliley, Chairman

March 20, 1997

INTRODUCTION

Clause 4(g) of Rule X of the Rules of the House of Representatives for the 105th Congress and Section 301(d) of the Congressional Budget Act of 1974, as amended, require each standing committee of the House to submit to the Committee on the Budget (1) its views and estimates with respect to all matters to be set forth in the Concurrent Resolution on the Budget for the ensuing fiscal year which are within its jurisdiction or functions, and (2) an estimate of the total amounts of new budget authority and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within its jurisdiction which it intends to be effective during that fiscal year.

On February 6, 1997, President Clinton submitted to Congress his proposed budget for Fiscal Year 1998. The Committee on the Budget has requested that Committees submit their Views and Estimates by March 20, 1997.

The President's Fiscal Year 1998 budget proposal purports to balance the Federal Budget in 2002. The Committee on Commerce fully supports this objective. Balancing the Federal budget and reducing the Federal deficit is the major goal, not only of this Committee, but of every Committee in the House.

Balancing the Federal budget is not an impossible task. The Federal deficit can be eliminated. It simply will take an honest approach to the Federal budget, an honest plan to achieve a balanced budget based on honest reforms of current programs, honest estimates of the savings from those reforms, and an honest schedule to implement those programs.

Regrettably, after reviewing the President's budget, the Committee is forced to conclude that the President's February 6, 1997, budget proposal does not meet its objective. Rather than an honest plan to balance the budget in 2002, the President has submitted a budget that does not balance. The proposed budget calls for practically no deficit reduction in the first three years, to be followed by two years with 98 percent of the reductions. But even the delayed reductions do not add up to a balanced budget. The Congressional Budget Office estimates that the Administration plan will not balance the budget even using a series of budget gimmicks advocated by the Administration. And these gimmicks would impose surprise taxes on individuals and businesses across America. To put it simply, the math just doesn't work.

The Committee on Commerce is firmly committed to achieving a real balanced budget by 2002. In order to attain that goal, the Committee intends to work for enactment of fiscally responsible legislation to restructure the Medicare and Medicaid programs, while ensuring that the beneficiaries of those programs, both current and future, receive the highest quality of medical care and services. The Committee intends to continue working toward the enactment of legislation that will provide a leaner, more efficient Federal government by eliminating unnecessary Federal bureaucracies and burdensome regulations and by streamlining the programs necessary for the protection of the environment and the public health and safety of all Americans.

Building a bridge to the 21st Century is a commendable goal. But that bridge should not be a "toll bridge" built with faulty estimates and substandard plans at the cost of higher deficits and more American taxpayer dollars.

The Committee's Views and Estimates on the President's Fiscal Year 1998 budget proposal dated February 6, 1997, for programs within the jurisdiction of the Committee on Commerce are contained in the following pages.

CONSUMER PROTECTION

Consumer Product Safety Commission

The Consumer Product Safety Commission's (CPSC's) budget request for Fiscal Year 1998 is \$45 million, a 6 percent increase over its 1997 Fiscal Year budget authority, and a 13 percent increase over its FY 1996 budget authority. The Committee recommends that funding for the CPSC continue at no more than last year's funding level.

In keeping with the President's budget commitment that "the era of big Government is over," the Committee believes that the CPSC should focus on better government as opposed to larger government. The CPSC's budget submission requests an increase for every single one of its offices except the Office of the Inspector General and the Office of Information Services. In fact, the CPSC has managed to include in its budget a new request for a 5 percent addition for the Commissioners, as well as a 10 percent boost for "Executive Direction". There is no reason why the CPSC should not contribute to deficit reduction efforts, particularly considering that almost 19 percent of its annual budget is consumed by agency management expenses.

The Committee believes that the CPSC should streamline its activities in order to more efficiently perform its education and regulatory responsibilities while maintaining appropriate consumer safety standards. The CPSC's authorization expired in 1992, and the Committee does not believe that further funding is appropriate until the Committee completes its consideration of reauthorizing legislation.

Federal Trade Commission

The Federal Trade Commission (FTC), an independent agency charged with administering nearly 40 different statutes, requested new budget authority of \$108 million for Fiscal Year 1998, an increase of 5 percent over its estimated budget authority for Fiscal Year 1997. Much of the agency's budget authority is offset by Hart-Scott-Rodino merger fees. These fees are estimated to amount to \$76 million in FY 1997 and \$80 million for FY 1998 and will represent a 5 percent increase in merger fee revenues.

The 104th Congress enacted legislation to reauthorize the FTC through FY 1998 (P.L. 104-216). The Committee will again consider reauthorization legislation in the Second Session of the 105th Congress.

Given the heightened workload and responsibilities facing the agency, both with the increase in merger activity and legislative mandates, such as the Telemarketing Fraud Act, the President's request represents an acceptable funding level for this agency. It is only slightly less than the Committee's own authorized level and will permit the agency to retain its relatively lean posture without compromising its primary missions.

National Highway Traffic Safety Administration

The President's Fiscal Year 1998 budget recommends several initiatives for funding the National Highway Traffic Safety Administration (NHTSA), an administration in the Department of Transportation (DOT). First, the President's budget recommends that all funding for the agency be taken from the Highway Trust Fund, instead of funding most of the agency's administration and automobile safety mission from the general treasury, as has heretofore been the case. Second, the President's budget recommends a nearly 10 percent increase in the agency's overall budget over FY 1997 enacted levels, to \$333 million. An increase is requested for virtually every major program for which the agency is responsible.

NHTSA was last reauthorized in the 1991 Intermodal Surface Transportation Efficiency Act (ISTEA). That authorization expired at the end of Fiscal Year 1995.

Among those programs within the Committee's jurisdiction, the President has requested increases of nearly \$1.9 million. This is in addition to the substantial increases the agency received for new or expanded activities in the FY 1997 funding cycle. The Committee has not yet evaluated the merit of each of these requests, and some of the assumptions made in the budget, such as the "repeal of the requirements for collection and analysis of unnecessary insurance information," require statutory changes. In light of these realities, the Committee believes that it would be prudent to withhold these increases until the Committee completes its reauthorization of the agency, planned for this session.

Finally, while the Committee has not yet fully evaluated the Administration's proposal to secure all NHTSA funding from the Highway Trust Fund, the Committee is concerned that such a change in funding schemes could place vital automobile safety programs in competition with other transportation priorities, possibly threatening the availability of resources for those programs. This is a question that the Committee will explore further in its reauthorization hearings.

ENERGY

The President's Fiscal Year 1998 budget requests \$19.2 billion in new budget authority for the Department of Energy (DOE). This represents an increase of \$2.9 billion from FY 1997 (17 percent), after two years at a relatively flat level of \$16 billion. Nearly all of the increase (\$2.3 billion) above the

FY 1997 level is the result of two new initiatives: (1) changing the financing of construction projects by requesting full up-front funding (\$1.6 billion); and (2) sharply expanding the Environmental Management (EM) privatization program DOE established last year (\$700 million). The DOE FY 1998 request for its core programs is 2.6 percent higher than the FY 1997 level. Although the request for core programs is relatively flat, DOE seeks major increases for three Department programs: (1) energy conservation and efficiency (25 percent); (2) solar and renewable energy research and development (22 percent); and (3) environmental management (20 percent).

The Environmental Quality mission is the most important DOE activity, accounting for \$7.8 billion of its FY 1998 budget request of \$19.2 billion. This is a \$1.2 billion increase from the FY 1997 level of \$6.6 billion, and a slight increase for core programs. The Department requests \$5.6 billion for core national security programs for FY 1998, and \$1 billion for full funding of construction projects. This compares to the FY 1997 level of \$5.5 billion for national security programs. DOE requests \$2.5 billion for science and technology programs in FY 1998, a flat level since FY 1996. Finally, DOE requests \$1.95 billion for energy resource programs, which represents a \$200 million increase over the FY 1997 level of \$1.8 billion. However, even with this proposed increase the energy resource mission accounts for only 10 percent of DOE's FY 1998 budget request.

The Department of Energy has made much of its Strategic Alignment Initiative, declaring it has the ability to reform itself. However, according to the President's budget request, the Department is one of the laggards in downsizing -- only the Environmental Protection Agency, the Department of Veterans Affairs, the Social Security Administration, and the Department of Justice have done less to reduce the number of employees. While DOE is moving in the right direction, it clearly is not leading the way, but following in the wake of other Federal agencies.

Construction Project Financing

The Department's history of managing the construction of major projects is at best checkered. DOE often has begun the construction of major projects based on cost estimates that later proved to be woefully optimistic, only to run into major cost overruns and schedule delays. The most recent example of this is the Defense Waste Processing Plant at Savannah River, which cost \$1 billion more than projected and was delayed by many months. In some celebrated cases, DOE has abandoned major construction projects after the investment of billions of dollars. A factor in these failures may have been the method of financing project construction. Historically, DOE requested funding for construction projects on an incremental basis. That approach made it easy for the Department to begin the construction of major projects since annual costs would be a fraction of completion costs.

In FY 1998, the Department proposes to adopt procedures currently used in most other agencies that require full up-front funding of construction projects. The Committee supports this initiative because it should make it easier for the Administration and Congress to determine the true cost of projects before the onset of construction. Significantly, it should reduce the prospect that DOE will have to abandon large construction projects in the future. While this change would result in sharply increased budget authority until outlays begin, the Committee believes it is important for DOE to adopt these more responsible procedures for construction projects.

Environmental Management Privatization

DOE requests \$1 billion in new budget authority to sharply expand the privatization initiative established last year -- tripling funding from the \$330 million level appropriated last year. The privatization initiative is intended to accelerate completion of cleanup projects by changing the contractual relationship between DOE and contractors. Under privatization, DOE purchases services on a competitive fixed-price basis and pays for treated waste under contract performance criteria. Compensation is tied to the performance of service, rather than cost reimbursement and fee awards. Although the privatization concept has promise, the Committee has serious reservations about the increase requested by the Department. Given the poor performance of Environmental Management (EM) programs to date, it is tempting to believe any alternative approach will be more successful than methods used to date. However, the Committee has a responsibility to assure that the substantial sums spent on the environmental management program result in the timely cleanup of sites at a reasonable cost.

Privatization may well result in accelerated completion of cleanup projects at a lower cost. However, the burden is on the Department to demonstrate the privatization projects to date have been so successful that tripling funding is justified. DOE has made no such demonstration. At present, there is an insufficient track record to warrant such a sharp expansion of the privatization initiative. Moreover, concerns have been raised about the performance of some of the privatization projects launched in the past. The Department has a long history of declaring victory far too soon when resorting to new approaches to long-standing problems, and this appears to be a case in point. The privatization initiative may prove to be successful, but it may also turn out to be the latest failure in the environmental management program. Until there is a basis to believe the privatization program will produce success, the Committee believes the sharp expansion proposed by DOE is unjustified.

Environmental Management Program

The Committee maintains its strong commitment to the Department's Environmental Management (EM) program. DOE is responsible for remediating the Cold War legacy of contamination at its nuclear weapons complex, which spans 10,000 locations at 140 sites in 33 States. The nuclear weapons facilities are among the most contaminated sites in the U.S. and may take decades to remediate. The effort to clean up these sites is likely to be among the costliest public works ever attempted, and estimates range between \$200 and \$350 billion.

DOE requests \$6.3 billion for EM and Environmental Restoration core programs for FY 1998, \$1 billion for privatization projects, and \$645 million for full funding of construction projects. This compares to a FY 1997 level of \$6.2 billion, and \$330 million for privatization projects. At the Subcommittee on Energy and Power hearing on February 11, 1997, on the Department of Energy's Proposed Budget for Fiscal Year 1998, a representative of the Department testified that this funding level is sufficient to permit DOE to fulfill the legal obligations it has entered into with States and local communities, and the Committee vigorously supports maintaining these legal commitments and responsibilities to the States.

The EM budget also supports the Office of Science and Technology (OST), with a budget request of \$308 million, and is not tied to DOE's legal obligations at EM sites. The Committee is concerned that the \$2.6 billion appropriated to OST since 1990 has resulted in little real or potential benefit to the EM cleanup effort. Further spending in this area should be justified with a demonstration of program need and effectiveness, or these funds should be utilized for direct cleanup efforts.

A major new initiative of EM is its "Ten Year Plan," an effort to complete cleanup at most nuclear sites over the next decade. To that end, EM sites are developing Ten Year Plans intended to produce major cost savings through mortgage reduction in the out years. According to DOE, treatment will continue at a small number of sites that have certain waste streams, such as high level and transuranic waste. The first draft of EM's Ten Year Plan is scheduled to be released by DOE on March 31, 1997, and the final draft in September 1997. The Committee strongly supports the goal of completing cleanup at most nuclear sites over the next decade, and encourages the Department to complete this plan in a timely manner and consult with the Congress on its implementation.

Nuclear Waste Program

The Committee is dissatisfied with the Department's request for funding the nuclear waste program. DOE requests \$380 million for FY 1998 -- the lowest budget request in several years. Since the payments of utility ratepayers to the Nuclear Waste Fund are expected to collect over \$600 million in FY 1998, the Administration proposes diverting more than 70 percent of funds paid by electricity consumers to other Federal programs. The Department proposed this diversion despite a Federal court ruling (*Indiana Michigan Power v. DOE*, 88 F.3d 1272 (D.C. Cir. 1996)) which determined that the Department of Energy has a legal obligation to begin acceptance of high-level radioactive waste and spent nuclear fuel by January 31, 1998.

In addition, the budget request reduces the contribution of the Department of Defense to the waste disposal program, although that contribution is in arrears by \$2 billion. By relying unduly on consumer contributions and failing to provide for an adequate defense contribution to the program, the Administration in effect forces consumers to lend money to the Department of Defense. For that reason, the Committee believes the Administration should increase the defense contribution to the nuclear waste program. The Committee is also gravely disappointed that DOE's budget request is not accompanied by any proposal from the Administration on how it intends to comply with its legal obligation to begin acceptance of high-level radioactive waste and spent nuclear fuel by January 31, 1998 -- less than one year from now.

Tritium Production

The Department is pursuing a dual track strategy for a new source of tritium: (1) purchase an existing commercial light water reactor or irradiation services; or (2) develop a linear accelerator. The Committee has doubts about whether DOE should pursue an accelerator as a new source of tritium. The Department has a poor history managing large construction projects, and there is concern the Department may not succeed with a linear accelerator. In addition, a linear accelerator would be a far

more expensive method of producing tritium than would the purchase of a light water reactor or irradiation services -- costing at least three or four times as much. Reliance on the dual track approach entails substantial costs with respect to the accelerator option -- in FY 1998 alone, DOE requests \$168 million simply for design work on an accelerator for tritium production.

In addition, it appears that an accelerator cannot begin tritium production by 2005, as required by Presidential Directive. As a result, a decision to rely on an accelerator as a new source of tritium production may make it more likely that the Fast Flux Test Facility (FFTF) will be needed for tritium production, albeit on a temporary basis. At the Subcommittee on Energy and Power hearing on February 11, 1997, on the Department of Energy's Proposed Budget for Fiscal Year 1998, a representative of the Department testified that the FFTF may be needed as a "bridge" to assure tritium production can begin in 2005, and requests \$40 million to maintain the FFTF in standby. That need will be even greater if the Department decides to rely on an accelerator for a new source of tritium.

DOE National Laboratories

The DOE national laboratories are at a crossroads. The Cold War is over and the size and missions of the labs are a matter of debate. The Task Force on Alternative Futures for the DOE Laboratories (the Galvin Task Force) commissioned by the Department concluded in 1995 that the national laboratory system is oversized for its current mission assignments and warned against allowing the labs to expand their missions to justify existing capacity. Further, the Galvin Task Force report faulted DOE management of the labs, stating "numerous instances of poor DOE regulatory and management practices have come to the attention of all members of the Task Force during its investigation of the national laboratories. The system has been tried long enough; the evidence is in."

DOE has developed a Strategic Laboratory Missions Plan to determine the future of the national labs. The Plan recognizes the labs do not have clearly defined statutory missions assigned to them by Congress. The Missions Plan discussed options such as reducing the number of laboratories, evaluating whether small, mission-specific labs are candidates for privatization, reducing the size of each laboratory, focusing each lab around a single mission, or focusing each lab around a technical competency. The Committee observes that the Department recognizes that efforts to reform the labs must involve a partnership with the Congress.

The Committee believes DOE has been moving in the right direction, but too slowly. There is a cost to delaying decisions on the future role of the national labs. According to a General Accounting Office report entitled *DOE's Laboratory Facilities* (GAO/RCED-96-183R), 62 percent of lab facilities are more than 26 years old and the backlog for urgent renovation and upgrades is at least \$1.3 billion. If DOE adopts a "preserve all options" approach, the cost of maintaining and upgrading the labs will be tremendous. The Committee urges the Department to finalize its Strategic Laboratory Missions Plan and work with the Congress to determine the future role of the national laboratories.

Energy Technology Development

The Department insists, in its FY 1998 Budget Request: Budget Highlights and Performance Plan, that “helping guard against energy supply disruptions and their associated threats to the United States remains a fundamental priority of the Department of Energy.” DOE’s energy security strategy is based on energy technology development, including developing renewable energy; improving efficiency in energy-intensive industries; designing and delivering cars of the future; implementing the Climate Change Action Plan; developing the clean, high efficiency power plant for the future; increasing U.S. energy technology exports and investments; fostering energy efficient buildings and communities; developing technologies to address the aging of nuclear plants; and other means.

The DOE energy security strategy relies on reducing demand for energy rather than increasing U.S. energy production. The Department does propose a modest initiative to boost U.S. oil and gas production by 500,000 barrels per day during the period 2001-2010. However, this program would do little to reverse increased U.S. dependence on oil imports, even if it were successful, since DOE projects imports will rise from 9 million barrels per day in 1994 to 13 million barrels per day in 2010 -- an increase of 500,000 barrels per day in production would reduce imports by only 3 percent. Likewise, although coal is the most abundant domestic energy resource, the Department proposes to rescind \$153 million in unobligated balances in FY 1998 and defer an additional \$133 million until FY 1999.

Because the Department’s energy security strategy is based on energy technology development, it promises no near-term improvement in U.S. energy security. This helps explain why the Department projects that U.S. dependence on oil imports will continue to rise sharply -- from 48 percent of petroleum consumption in 1995 to 59 percent in 2000, 63 percent in 2005, 65 percent in 2010, and 66 percent in 2015. If energy security indeed is a fundamental priority of the Department of Energy, it is a long-term priority. The only near-term energy security measure offered by DOE is maintaining the Strategic Petroleum Reserve (SPR). Unfortunately, the President has proposed selling 50 million barrels of SPR stocks in the year 2002 as part of his budget proposal.

Strategic Petroleum Reserve

The Committee notes DOE did not propose selling any of the stocks in the Strategic Petroleum Reserve (SPR) during FY 1998. If this request is approved, it will be the first time in several years that SPR operation is funded without the sale of oil stocks or transferring balances from other accounts. In its FY 1998 budget submittal, DOE declares that its request “supports several efforts to ensure greater domestic oil security,” including maintaining the Strategic Petroleum Reserve at 563 million barrels through 2001. It is not at all clear how U.S. energy security is increased by maintaining the SPR at its current size. On the contrary, given that U.S. dependence on oil imports continues to increase, it would seem necessary to increase the SPR to maintain domestic oil security. The Committee observes the DOE statement promising to maintain the SPR through 2001 is worded with great care, since the President has proposed selling over 50 million barrels out of the SPR in 2002. The Committee believes this sale will reduce U.S. energy security and opposes the Administration proposal.

ENVIRONMENT

Clean Air Act

The Environmental Protection Agency's (EPA's) budget request for Fiscal Year 1998 proposes a \$59.8 million increase in air programs. On a percentage basis, this increase exceeds 23 percent. The budget proposal also specifies six program objectives that EPA has established for FY 1998. Among these objectives are: (1) the adequacy of the National Ambient Air Quality standards; (2) reduction of hazardous air pollutants; (3) encouraging the use of market-based approaches to pollution control; (4) reduction of energy consumption and voluntary pollution prevention; (5) implementation of the Montreal Protocol; and (6) technical support to State and tribal air programs.

With respect to the first objective, the Commerce Committee notes that on page 3-108 of the Environmental Protection Agency Fiscal Year 1998 Justification of Appropriations Estimates for the Committee on Appropriations, the following statements are made concerning a \$26.58 million request for Particulate Matter (PM) research:

While the available epidemiological data are sufficient to indicate an association between PM and adverse human health effects, many scientific uncertainties remain. Plausible biological mechanisms by which PM at low ambient levels could cause mortality and morbidity effects suggested by epidemiological studies have yet to be identified. It is not yet possible to determine which ambient concentrations are the most significant in causing adverse health effects.

Money for additional research is proposed to:

reduce uncertainties [. . .] thereby providing strong scientific bases for future PM NAAQS revision decisions by the Agency (with potential multibillion dollar control costs); and (2) produce the data and tools needed to guide future risk reduction strategies so that the PM NAAQS can be attained to reduce potential health threats to the U.S. population.

The Committee agrees that additional PM research is an extremely necessary component of EPA's work regarding criteria air pollutants. The Committee recommends that the full amount of the appropriation be granted to reduce the substantial uncertainties which apparently exist.

The Committee also intends to continue its review of Title III of the Clean Air Act Amendments of 1990 and notes the Agency development of an "integrated urban air toxics strategy." EPA states on page 2-56, that \$881,350 is being allocated for this activity. This activity is apparently associated with EPA's interpretation of its statutory duties under section 112(k)(3) of the Clean Air Act, as amended. While the Committee does not express a current opinion on the amount of this expenditure, the Committee intends to review the work product of this expenditure and obtain other information concerning this effort from the Agency. The Committee is also interested in reviewing the \$871,700 expenditure allocated for the initiation of an evaluation of residual risk for sources covered by current Maximum Achievable Control Technology (MACT) standards.

Finally, EPA has requested \$21 million to support the Montreal Protocol Multilateral Fund. During 1997, the Committee will closely review the operation of this Fund as well as the expenditures that have been made in the years since the Fund was established. The Committee specifically notes that the legislative authority for the Fund has expired.

Safe Drinking Water

The Fiscal Year 1998 budget request for the Office of Water includes extensive changes that are a consequence of enactment of the Safe Drinking Water Act Amendments of 1996 (P.L. 104-182). Total program changes represent an increase of \$10.5 million over FY 1997. This increase is justified on the basis of numerous regulatory and program activities required by the 1996 Amendments, including reform of the standard-setting process, new pollution prevention approaches, consumer information, and establishment of the Drinking Water State Revolving Fund.

The Committee believes it is logical to expect that some funding increases will be necessary to accommodate the deadlines which the 1996 Amendments established for recasting the Federal effort to ensure the safety of our nation's drinking water supply. At the present time, however, the Committee is not able to either endorse or criticize the proposed funding increases.

Instead, the Committee believes that an assessment of agency expenditures for the drinking water program must await a future review of the 1996 Amendments and their effectiveness in promoting cost-effective regulations, greater protection of the public health, and the ability of the agency to implement other elements of the 1996 Amendments in a manner which comports with the law and Congressional intent. In short, the Committee is aware that its legislative handiwork has produced a flurry of activity to reform and improve the Federal drinking water program. Thus, the Committee will not rush to judgment on this activity, but rather evaluate the results of the reforms enacted in 1996 when it renders its judgment on the appropriateness of future funding requests.

In addition, the Committee notes that \$725 million has been requested for the Drinking Water State Revolving Fund (SRF). Approval of this funding would result in a total capitalization of \$1.275 billion based on prior year appropriations. Referencing the unanimous 42-0 vote of the Committee on Commerce to establish this fund on June 11, 1996, the Committee believes that this funding level is consistent with the intent of the 1996 Amendments. As with other elements of the Safe Drinking Water Act, however, the Committee will be vigilant in its oversight of SRF expenditures and operations.

Superfund Program

For the Superfund program administered by the Environmental Protection Agency, the Committee recommends funding at a level commensurate with current program needs and future needs based on comprehensive reauthorization and reform. The Committee further recommends that some or all of the revenues to the Superfund Trust Fund be made available for cleanup of hazardous wastes sites as mandatory spending.

FINANCE

Securities and Exchange Commission

The President's budget request for the Securities and Exchange Commission (SEC) for Fiscal Year 1998 is \$317.4 million. The Committee on Commerce authorized the agency for \$318 million in Fiscal Year 1997, and it received a total appropriation of \$305 million. The Committee endorses the proposed total budget authority for the SEC.

The longstanding problem of SEC funding was addressed in Title IV of the National Securities Markets Improvement Act (the Improvement Act) (P.L. 104-290) which codified the Bliley-Rogers-Archer-Hollings agreement to provide a long term funding mechanism for the SEC. Title IV of the Improvement Act diminishes over time the reliance of the agency on fee revenue and anticipates instead, funding the agency by means of appropriations. The fee requests in the President's budget are consistent with the reductions codified in the Improvement Act, and the Committee commends the Administration for structuring its budget request to be consistent with the Improvement Act.

The Committee notes that the unprecedented level of activity in the securities markets has produced fee revenue in excess of that which was anticipated by either the Office of Management and Budget (OMB) or the Congressional Budget Office (CBO) in their estimates of the level of revenue that would be generated by the fee levels set in Title IV of the Improvement Act. This additional revenue has been carried over for use to fund the SEC in Fiscal Year 1998. This carryover has the effect of reducing the need for additional appropriations to fund the SEC in Fiscal Year 1998.

Using additional fee revenue generated by market activity to diminish the need for appropriations is consistent with the agreement codified in Title IV. It does, however, present some concern to the Committee. The Improvement Act was structured so that increases in appropriations for the SEC, replacing offsetting collections as fee levels are reduced, would be in gradual, even increments. These relatively even increments were designed to provide for a return to funding the SEC by means of appropriation with minimal disruption to the other important programs under the Commerce, Justice, State and Related Agencies Appropriations cap. If market activity diminishes, and fee revenue returns to that which was projected by OMB and CBO, there will be need for larger appropriations to fund the SEC in subsequent fiscal years. This need will be magnified by the fact that the rate of the Section 6(b) fee will be reduced from 1/34 of one percent to 1/150 of one percent in the next ten years. Title IV anticipated that there would be a need for approximately \$68 million in appropriations for the SEC, with \$250 million offsetting revenue generated by fees. The Committee believes that it would be prudent to provide for a larger appropriation than the \$36 million called for in the President's budget. The additional surplus generated by SEC fees can be used for deficit reduction.

Finally, although the President's budget does not address the issue, the Committee notes that the SEC has estimated the contract costs for operating the EDGAR system at \$8.2 million for 1997. While the SEC has indicated that the costs for the follow-on contract that will succeed the current EDGAR

contract are not known, the Committee expects that the privatization of significant parts, if not all, of the EDGAR system will reduce the operating costs of the system in the coming years.

HEALTH

Medicaid

The President's Fiscal Year 1998 budget proposes a significant restructuring of the Medicaid program. The Committee commends the President on many aspects of this proposal, which is the latest in a series of incrementally improving measures put forth by the President. However, the Committee is concerned that the President's proposal fails to adopt reforms deemed critical by the Nation's Governors. The Committee supports reform based upon the unanimous bipartisan agreement reached on February 4, 1997, by the National Governors Association and intends to explore options for translating the Governors' agreement into a consensus for Federal legislation.

The Committee believes that the Administration's per capita cap proposal would freeze in place current per capita funding levels. This model would maintain the current Medicaid program's highly inequitable funding system in which some States receive as much as three times as many Federal dollars per recipient as do other States. As such, the Administration's proposal may be especially harmful to those States in which the current level of medical assistance expenditures is insufficient to meet current and future needs. The Committee will closely examine the Administration proposal in order to determine the optimal approach for ensuring that Federal Medicaid funds are distributed in an equitable, sustainable, and predictable manner.

The President's FY 1998 budget also calls for the reduction of aid to hospitals serving a disproportionate share of the Medicaid and uninsured populations, while directing much of the remaining funding to targeted community and rural health centers. The Committee is concerned that the Administration plan derives twice as many saved dollars from disproportionate share hospital (DSH) cuts than from broader reform of the process by which Federal Medicaid funds are disbursed to the States.

The Committee commends the President for the inclusion in the budget proposal of certain waiver provisions and the repeal of the Boren amendment. However, the Committee maintains its conviction that States will not be able to exercise the flexibility that is essential to truly improving the effectiveness, responsiveness, and efficiency of the Medicaid program as long as the program's existing structure remains largely intact.

Finally, the Committee recognizes that the Administration shares Congress' longstanding commitment to better health coverage for the Nation's children. The President's budget provides for a number of options intended to expand coverage among children, which include continuous coverage of temporarily insured children, the immediate phase-in of children age 15 through 18, and grant funding for State outreach and enrollment of Medicaid-eligible uninsured children. The Committee is deeply committed to ensuring that efforts to improve the scope and quality of children's health coverage avoid

the serious risks that have contributed to the problem of uninsured children today. According to General Accounting Office estimates, as many as one-third of all uninsured children are *currently* eligible for Medicaid. Establishing additional options or mandates within the Medicaid program, therefore, may not succeed unless the obstacles to more responsive, cost-effective coverage that plague the program are addressed. As a result, the Committee will continue its efforts to expand the coverage of eligible children by working to modernize and improve the program upon which so many children rely.

Medicare

The Committee commends the President for submitting a Fiscal Year 1998 budget that recognizes the need to address the problems of the Medicare Trust Fund and improve the choices available to the Medicare beneficiaries. While the Congressional Budget Office's estimates of the actual savings of the President's proposal are lower than those presented by the Administration, the plan appears to include provisions that extend solvency of the Part A Trust Fund into the next decade. The Committee is examining the specific measures proposed by the President, however, to ensure that they also utilize the most optimal approaches available to achieving at least short-term fiscal sustainability.

Among the most notable of these provisions is the Administration's proposed transfer of home health coverage from Part A of Medicare to Part B. Under the President's proposal, the first 100 visits after an inpatient admission would be covered under Part A; all subsequent visits and all visits without prior hospitalization would be shifted to Part B. Currently, all services covered by Part B -- including physician services, durable medical equipment, clinical laboratory services, ambulatory surgical expenses, and other medical services -- are financed through a combination of beneficiary premiums (currently 25 percent of program costs) and Federal general revenues. If shifted into Part B as proposed by the President, however, home health services would be fully financed by general revenues and would not be subject to the conditions of other Part B services. Under the President's plan, home health services would not be included in the calculation of the Part B premium and would not be subject to Part B deductibles or premiums.

The Administration proposal includes a number of provisions intended to stem the growth in provider reimbursement and specified benefits costs. These include the establishment of a single conversion factor for physician payments and a prospective payment system for hospital outpatient services, reduction in the prospective payments made to ambulatory surgery centers, and the elimination of average wholesale price-based payments for prescription drugs. The President's budget also proposes an increase in Medicare premiums by fixing them to a level equivalent to 25 percent of program costs. Absent this change, the premium cost would fall to approximately 20.8 percent of program costs in FY 2002.

Finally, the Administration plan incorporates a number of changes relative to managed care. It incorporates provisions intended to expand the managed care options available to Medicare beneficiaries to include preferred provider organizations and provider sponsored networks. It also

establishes a new approach to making payments to risk plans serving beneficiaries by establishing a new rate methodology for the adjusted average per capita cost (AAPCC)-based payments received by participating plans and by disaggregating medical education and DSH payments from the managed care payment. Based on the limited data provided by the Administration on these proposals to date, it appears that the methodology would raise the floor for managed care payments and gradually phase in a blended rate of national and local payment levels. However, the extent to which this change will achieve significant variability above the floor is not yet clear. Also unknown at this time is the extent of the impact of the removal of medical education and DSH payments on plans operating in large urban areas.

The Committee maintains its commitment to expanding the range of choices available to beneficiaries within a more sustainable and responsive Medicare program. The Committee will continue its analysis of the President's plan, including forthcoming data requested from the Administration, in an effort to determine whether the proposals included in the FY 1998 budget achieve the Committee's longstanding objectives.

Food and Drug Administration

Starting in the 104th Congress, the Committee pursued an active initiative to achieve greater efficiency and accountability and less unnecessary regulation by the Food and Drug Administration (FDA). This initiative was undertaken in order to expand patient and provider access to safe and effective medicines, medical devices, and food products, as well as to keep U.S. industries from conducting clinical research, or moving factories, overseas.

Through an extensive series of hearings and investigations, the Committee conducted numerous hearings and related efforts to identify and address FDA inefficiency and management concerns. The Committee also developed three landmark FDA reform measures on medical devices, pharmaceuticals and biologics, and foods, which were introduced and utilized as the benchmark for extensive negotiations with the Administration. The outcome of this process is encouraging, in that the agency responded to the Committee's focus by making important corrections to its review and approval process. However, the limited extent of these changes also emphasizes the need for fundamental improvement of the agency's operations and administration.

The President's Fiscal Year 1998 budget proposal for \$1,064 million reflects a \$69 million or a 7 percent increase over the FDA's FY 1997 authorized budget. The budget proposal includes a number of provisions which are of concern to the Committee and which are the subject of intensive analysis. Among these is a significant reduction in appropriations for the agency and the apparent intention of the Administration to offset the resulting funding shortfall with unauthorized user fees. The FY 1998 budget seeks to replace a significant percentage, 12 percent, of appropriated funds with new user fees. It includes a legislative proposal to add \$133 million in new user fees for a total of \$244 million in user fees, or 23 percent of FDA's budget, more than a doubling of the total of 11 percent from user fee funding authorized in FY 1997. Existing user fees would increase by 4 percent for fees currently collected under the Prescription Drug User Fee Act (PDUFA) paid to expedite FDA's review of human

drug applications and under the Mammography Quality Standards Act (MQSA) for the inspection of mammography facilities. In addition to the existing PDUFA and MQSA fees, FDA's legislative proposal would add \$133 million in new user fees for medical device reviews, animal drug approvals, import inspections, food additive petition reviews, generic/over-the-counter drug applications, and fees for postmarket surveillance of products.

The Committee believes that the success of the Prescription Drug User Fee Act should be preserved by a responsible effort to achieve reauthorization of the program in a manner that does not expand the scope of agency user fees nor increase their cost without a consensus on additional performance enhancements that will be realized as a result.

The Committee intends to actively pursue its ongoing effort to expand patient and provider access to safe and effective medical devices, drugs and biologics, and foods. This commitment will be undertaken by engaging the Administration in negotiations over its budget and reform proposals, reauthorizing PDUFA in concert with reform of the review and approval process for drugs and biologics, and achieving reforms in the Agency's review and approval processes for medical devices and foods.

TELECOMMUNICATIONS

Federal Communications Commission

FCC Salaries and Expenses

The President's budget request for the Federal Communications Commission (FCC) allocates \$219.079 million for Fiscal Year 1998, of which \$162.523 million is offset through the fee authority provided in Section 9 of the Communications Act of 1934, as amended. This amount represents an increase of \$30 million over the Fiscal Year 1997 appropriations and is intended to cover the cost of moving the FCC's headquarters.

The President's Fiscal Year 1998 budget for the FCC covers 2,155 full time employees. This is a decrease of 100 FTEs from Fiscal Year 1997 and will be accomplished through routine attrition and expiration of term appointments for employees hired to implement the Telecommunications Act of 1996 (the 1996 Act).

The Committee intends to examine the allocation of FCC resources, given that the FCC is statutorily required to: (1) forbear from regulating where such regulation is not in consumers' interest nor otherwise in the public interest; and (2) beginning in 1998, determine whether regulations can be eliminated as unnecessary, due to competition in such regulated services. In addition, as rulemaking and enforcement priorities have shifted for purposes of implementing the 1996 Act, the Committee believes that the FCC must reassess and reallocate personnel and resources to reflect the new priorities and the deregulatory nature of the 1996 Act. Although many of the larger rulemakings required by the 1996 Act have been completed, the Committee recognizes that the FCC still has before it a substantial

workload. Thus, the Committee will examine these particular issues more closely as the Committee considers legislation to reauthorize the FCC later this year, but does not recommend any substantial reductions in the FCC's budget at this time.

FCC Spectrum Auction Authority

The Omnibus Budget Reconciliation Act of 1993 (OBRA93) permits the FCC to use competitive bidding procedures (*i.e.*, auctions) to assign to mutually exclusive applicants the right to use portions of the electromagnetic spectrum for subscription-based services. OBRA93 also established that the FCC's auction authority would expire at the end of FY 1998. The President's budget specifically proposes to raise \$36.1 billion through Fiscal Year 2002 by: (1) broadening and extending the FCC's existing auction authority (\$17.1 billion); (2) auctioning the "analog return" spectrum (\$14.8 billion); (3) auctioning broadcast channels 60-69 (\$3.5 billion); and (4) auctioning "888" vanity telephone numbers (\$700 million).

The Committee has very serious concerns with the President's proposed budget in this area. First and foremost, the Administration's budget, if enacted, would jeopardize an important telecommunications policy goal: a market-driven, rather than government-mandated, transition to digital television. The transition plan was initiated during the Reagan Administration, and was recently codified in the Telecommunications Act of 1996 (P.L. 104-104). The plan provides that incumbent broadcast licensees will be granted an additional six megahertz (MHz) of spectrum to simulcast in both analog and digital while American consumers steadily migrate to the digital format. And once the transition is complete, the licensees will return the original six MHz of spectrum to be re-allocated as the FCC sees fit. Throughout debate over the transition to digital, the Committee has impressed upon the FCC that the transition to digital must be made with as little disruption as possible to the American consumer. The FCC has thus recognized that the transition should occur in some markets sooner than others, depending upon the ability of consumers and broadcast stations alike to make the transition in any given market.

But the Administration now proposes, in conjunction with its budget submission, that this market-based transition be replaced with an arbitrary, government-imposed return date, namely 2006. Thus, in 2006, all local broadcast stations would be required to convert to digital, regardless of whether consumers and stations are prepared to actually make the transition. This mandatory give-back date, if enacted, will inevitably raise serious doubts in the minds of equipment manufacturers, broadcasters, and -- most importantly -- consumers today as to whether digital broadcasting will ever be viable and whether any investment for transmission or reception of a broadcast signal is prudent. As a result, many local broadcast stations will simply choose to forgo the transition rather than make a costly investment that will bear little, if any, fruit. The result: the transition to digital television is unlikely.

Beyond this policy concern, the Committee also seriously questions the spectrum auction estimates contained in the President's budget proposal for Fiscal Year 1998. The Committee's skepticism is based on several key considerations. First, the estimates defy historical trends. The President's budget proposes to raise \$35.4 billion in spectrum auctions over the next five years, with

\$22.1 billion (or 62 percent) to be raised in FY 2002. This latter figure is significantly more than has been bid in any given year, and in fact, is more than has been bid for all spectrum auctions from 1995 through 1997. Moreover, even if the estimates are accurate, they do not appear to consider the fact that defaults and installment payments will push receipts into years well beyond 2002.

Second, the President's spectrum auction proposal includes a so-called "failsafe" mechanism that the Committee believes is unworkable. The President's budget specifically proposes to hold an auction in FY 2002 for the returned spectrum at the end of the transition to digital television. To the extent the auction fails to raise the estimated \$14.8 billion, the budget proposes that incumbent licensees be taxed by an amount equal to the difference between the budget estimate and actual receipts.

And third, the estimates ignore recent evidence that highlights the risk in quantifying the value of spectrum. The FCC, pursuant to the Omnibus Consolidated Appropriations Act of 1997, will hold an auction on April 15, 1997, for 30 MHz of spectrum to be used for flexible-use wireless communications services (WCS). The auction was estimated to raise \$2.9 billion. The FCC, however, recently advised the Committee that the auction will, in all likelihood, fall well short of the estimated \$2.9 billion in revenue.

The Committee is similarly skeptical with regard to the proposal to raise \$700 million by auctioning "888" telephone numbers. While auctioning these numbers may be an economically efficient way to distribute toll free numbers, the President's budget provides no justification for the estimate, no policy rationale addressing international issues, and no understanding of the policy implications of auctioning one particular service access code (*i.e.*, numbering plan area code) vis-a-vis other codes. Once again, as with the other spectrum estimates, the President's proposals would let the budget process drive telecommunications policy.

Universal Service Fund

Universal service is the term used to describe the intent to keep all Americans connected to the public switched telephone network through various means. The President's budget, which includes the FCC's current subsidy mechanisms, characterizes universal service payments as "unavailable collections." In other words, the Administration is forced to include the FCC's current subsidy mechanisms within its budget, but it is not authorized to alter the programs or to divert funding to other programs. Thus, the Administration is not making budgetary recommendations as they relate to universal service.

Unfortunately, the Administration's budget does include unrealistic budgetary projections associated with the new Universal Service Fund, which has not even been created yet by the FCC. Specifically, the Administration believes that the fund will increase yearly from its initial balance of \$944 million to over \$12.8 billion by 2002. The Committee does not, and will not, support the growth of a large Federal Universal Service Fund.

National Telecommunications and Information Administration

The National Telecommunications and Information Administration's (NTIA's) allocation under the President's budget for Fiscal Year 1998 is \$54.074 million, of which \$16.22 million will come in the form of reimbursements from other Federal agencies for spectrum management activities conducted by NTIA. The funding would be divided accordingly: (1) \$18.074 million for salaries and expenses, and (2) \$36 million for the Telecommunications and Information Infrastructure Assistance Program (TIIAP) grant program. The total request represents an increase of \$1.561 million over NTIA's Fiscal Year 1997 appropriations. When the Committee considers NTIA's authorization, it intends to reexamine NTIA's core functions, as well as the need for the continuation of its grant programs.

In addition, as part of its Reconciliation package in 1995, the Committee voted to privatize NTIA's laboratories by selling the assets to a private entity intending to perform substantially the same functions. The Committee believes now, as it did last Congress, that such privatization is necessary and would result in a savings of \$3.6 million for Fiscal Year 1998. At a minimum, NTIA could contract with the private labs to conduct any necessary work rather than continuing to operate its own labs and contracting with private industry for work.

Regarding NTIA's grant programs, the Committee agrees with the President's budget that no funding should be allocated for the Public Telecommunications Facilities Program (PTFP) or for the National Endowment for Children's Education Television (NECET). While zero funding of NECET would not generate any savings because no funding was appropriated for this program last year, the elimination of the PTFP would save an additional \$15.25 million. The Committee disagrees, however, with the President's request for TIIAP. The request is an increase of \$14.51 million for TIIAP grants from the previous year. In the past, these grants have been used primarily to "help develop a nationwide, interactive, multimedia information infrastructure that is accessible to all citizens, in rural as well as urban areas." Given the passage of the Telecommunications Act last Congress, and in

particular, Sections 254 (Universal Service) and 255 (Access by Persons with Disabilities), the need for such “seed money” is drastically reduced because of the new support mechanisms being established. The Committee believes that funding for the TIIAP can be eliminated or substantially reduced.

The Committee is also concerned by the potential administrative costs of the program if the TIIAP program is maintained. Specifically, under the President’s budget NTIA would be authorized to spend \$3.010 million of the \$36 million on administration costs, or 8.4 percent. While the savings would be minimal, the Committee sees no reason why NTIA cannot live within the 5 percent administrative cost threshold authorized for other agencies and programs, such as the Corporation for Public Broadcasting.

The Committee intends to examine and push these objectives as the Committee considers reauthorizing NTIA later this year.

Corporation for Public Broadcasting

The President’s proposed budget requests \$325 million for the Corporation for Public Broadcasting (CPB) for FY 2000. (CPB operates on an advanced-funding basis, meaning Congress authorizes and appropriates funds two fiscal years in advance.) The Committee finds that the President’s proposed expenditure unacceptably high. Congress appropriated \$250 million for CPB for FY 1999. Thus, if enacted, the President’s proposal would result in a 30 percent increase for CPB. The Committee views this 30 percent increase as unnecessary, and intends to explore proposals to either reduce CPB’s funding or fund it through alternative means. In fact, CPB has demonstrated in recent years that it is capable of independently raising funds, which suggests that reasonable reductions in public financing do not threaten the viability of public broadcasting.

TRADE

International Trade Administration

The Committee is disappointed with the lack of progress in reforming the role of the Federal government in trade. The Committee intends to use the blueprint for dismantling the Department of Commerce it approved and transmitted to the Committee on the Budget on September 19, 1995, as the Committee’s model for terminating and consolidating programs under its jurisdiction. That plan would set in motion the consolidation of Federal trade and export promotion programs into a single United States Trade Administration.

The President’s Fiscal Year 1998 budget, on the other hand, merely maintains the *status quo* -- no duplicated programs are to be terminated, and no duplicated responsibilities are to be merged. Indeed, the International Trade Administration (ITA) itself requests a *status quo* budget: a slight increase in spending from an FY 1997 total of \$270 million to \$272 million in Fiscal Year 1998.

Maintaining this *status quo* budget might be warranted if the agency had a clear conception of its mission, and was able to reorder its priorities according to accurate and meaningful analyses of its marginal impact on trade. As part of a preliminary compliance with the Government Performance and Results Act of 1993, ITA cites as a key performance measure of its success in negotiating open markets increasing the number of briefing papers it churns out. In fact, by this measure, ITA will achieve great success in its resource allocation for the coming years, as it expects to increase from 4,696 reports in FY 1996 to 7,015 reports in FY 1998 (a 49 percent increase) while the number of “meetings, negotiations, and consultations” on multi-lateral trade problems is projected to decline by 6.5 percent, despite a relatively static number of employees.

The President's budget claims that “we are more closely integrating the Government’s trade promotion activities through the Trade Promotion Coordinating Committee (TPCC),” although the Committee found no evidence of coordination while conducting hearings on the Department of Commerce Dismantling Act of 1995 nor on other trade matters. The President's budget goes on to state that “TPCC agencies are developing rigorous performance measures to help ensure that programs in this area are effective.” The Committee is pleased to note that rigor will be added to the performance measures: DOE’s exaggerated claims of \$19.4 billion in deals being signed worldwide (which were submitted to the TPCC for their own “statistical” purposes) evaporated to a GAO estimate of \$448 million, if one were to count those projects that appear to have benefited foreign firms more than U.S. companies.

Export promotion programs are too diffuse and often result in ineffective trade efforts and unnecessary expenditures. Consolidation and better management objectives would reduce programmatic duplication and would strengthen U.S. leadership in international markets.